

Overview of 2011 State Enacted Immigration Legislation and Court Challenges¹

Issue Area	Jurisdictions	Enjoined Provisions ²
Law Enforcement and Courts		
287(g) Agreements Various provisions encouraging or authorizing state and local officials to enter into MOAs for 287(g) agreements with the federal DHS, and providing funding and certain incentives.	Alabama (HB 56, Sec. 4) Georgia (HB 87, Sec. 9-11, 14) South Carolina (SB 20, Sec. 17)	
Arrest Authorization for Immigration Violations <ul style="list-style-type: none"> • Authorizes law enforcement to arrest individual based on removal order issued by immigration court and detainer issued by DHS or probable cause of indictment or conviction of aggravated felony. • Authorizes law enforcement to arrest without a warrant any person the officer has probable cause to believe has committed a public offense that makes the person removable from the US. 	Indiana (SB 590, Sec. 20) Utah (HB 116, Sec 38, HB 497, Sec. 11) Arizona (SB 1070, Sec. 6)	<ul style="list-style-type: none"> • Enjoined by District Court (IN) • Enjoined by District Court (UT – HB 497) • Enjoined by District Court, Affirmed by 9th Cir., Appealed to US Supreme Court (AZ)
Bail Considerations Adds a defendant's status as an undocumented alien as a consideration in court's determination of bail, and places additional requirements on bail posting.	Indiana (SB 590, Sec. 21-22)	
Determination of Immigration Status <ul style="list-style-type: none"> • Requires reasonable attempt by law enforcement to determine immigration status of persons, where there is reasonable suspicion the person is an undocumented alien, during lawful stops, arresting and booking, failure to produce license, charge of crime requiring bail, jail confinement, and committed criminal offenders. • Prohibits verification of immigration status for individuals whose contact with law enforcement is as witness or victim or crime, or for purposes of reporting crime. 	Alabama (HB 56, Sec. 12, 18, 19) Georgia (HB 87, Sec. 8, 13) Indiana (SB 590, Sec. 3, 8) South Carolina (SB 20, Sec. 6-7) Utah (HB 497, Sec. 3-4) Arizona (SB 1070, Sec. 2(b))	<ul style="list-style-type: none"> • Injunction denied by 11th Circuit (AL) • Enjoined by District Court (GA) • Enjoined by District Court (SC) • Enjoined by District Court (UT) • Enjoined by District Court, Affirmed by 9th Cir., Appealed to US Supreme Court (AZ)
Notice to Federal Government Requires notification to federal or state authorities involved in immigration enforcement when an undocumented alien has paid a fine or is released from incarceration.	Alabama (HB 56, Sec. 20) Arizona (SB 1070, Sec. 2(C))	Injunction denied by District Court (AL)

¹ The above chart provides a general overview, rather than a state by state comparison of individual variations in approaches to enacted immigration laws. Five states enacted major packages of immigration legislation in 2011 and are included in this chart (Alabama, Georgia, Indiana, Utah, and South Carolina). States which enacted immigration legislation, but did not enact a major package have not been included for purposes of this general overview, due to the volume of legislation. Only one state's legislation package enacted prior to 2011, Arizona, is included, because the court challenge to that law has proceeded to the US Supreme Court.

² Some legal challenges to legislation sought injunctions of the bill as a whole, in addition to challenges of specific portions of legislation. In Utah, a preliminary injunction was granted barring enforcement of the law (HB 497) as a whole, pending a trial on the merits.

Stay of Proceedings against Alien Provides for stay of legal proceedings against an unlawfully present alien if the alien is a victim of a crime or a critical witness in any prosecution, or the child of one of the above, until completion of the collateral proceeding.	Alabama (HB 56, Sec. 21)	
Federal and State Law Compliance <ul style="list-style-type: none"> Requires that state agencies and officials comply with federal immigration law. Forbids limits or restrictions on enforcement of federal and state immigrations law. Creates civil actions to enforce. Creates various state-level boards to enforce penalties against violations of immigration provisions by state and local governments. Authorizes private citizens to bring actions against political subdivisions of the State to enjoin enactments of policies that limit enforcement of state and federal immigration laws and communication regarding immigration status. Creates Illegal Immigration Enforcement Unit in Department of Public Safety to enforce federal and state immigration laws. 	Alabama (HB 56, Sec. 5, 6) Georgia (HB 87, Sec. 20) Indiana (SB 590, Sec 2) South Carolina (SB 20, Sec. 1, 17) Utah (HB 497, Sec. 6) Arizona (SB 1070, Sec. 2(A), (H))	<ul style="list-style-type: none"> Enjoined by District Court (UT)
Documentation		
Alien Registration Documents Makes it a crime for aliens to fail to carry alien registration documents.	Alabama (HB 56, Sec. 10) South Carolina (SB 20, Sec. 5) Arizona (SB 1070, Sec. 3)	<ul style="list-style-type: none"> Enjoined by 11th Circuit (AL) Enjoined by District Court (SC) Enjoined by District Court, Affirmed by 9th Cir., Appealed to US Supreme Court (AZ)
Secure and Verifiable Documents <ul style="list-style-type: none"> Requires state and local governments to accept only secure and verifiable documents for official purposes requiring identification, unless otherwise provided by federal law. Excludes acceptance of consular identification issued by foreign nation. 	Georgia (HB 87, Sec. 19) Indiana (SB 590, Sec. 18)	<ul style="list-style-type: none"> Challenge dismissed by District Court (GA) Enjoined by District Court (IN)
Government Relations, Public Benefits, and Voting		
Information on Immigration Status Permits exchange of information regarding immigration status between agencies for determination of benefit status or verification of residency.	Alabama (HB 56, Sec. 5, 6) Georgia (HB 87, Sec. 9) Utah (HB 116, Sec. 6, HB 497, Sec. 7) Arizona (SB 1070, Sec. 2(F)) South Carolina (SB 20 Sec. 6)	<ul style="list-style-type: none"> Enjoined by District Court (UT)
Verification of Eligibility for Public Benefits <ul style="list-style-type: none"> Prohibits receipt of state benefits by undocumented aliens except as required by federal law and requires various types of documentation for citizens to receive benefits. Requires use of Systematic Alien Verification for 	Alabama (HB 56, Sec. 7) Georgia (HB 87, Sec. 15-18) Indiana (SB 590, Sec. 13) Utah (HB 497, Sec. 8)	Enjoined by District Court (UT)

Entitlements (SAVE) program to verify status.		
Proof of Citizenship for Voter Registration Requires presentation of evidence of US citizenship for voter registration.	Alabama (HB 56, Sec. 29)	
Prohibits State Transactions with Unlawful Aliens Prohibits undocumented aliens from entering into business transactions with state or local governments, including application or renewal of license plates, driver's licenses, or business licenses. Does not include marriage licenses.	Alabama (HB 56, Sec. 30)	Injunction denied by 11 th Circuit (AL)
Education		
Post-Secondary Education Limitations Prevents undocumented aliens from attending public postsecondary educational institutions and from receiving postsecondary education benefits.	Alabama (HB 56, Sec. 8)	Enjoined by District Court (AL)
Determination of Status of K-12 Students Requires determination of immigration status and qualification for assignment to an ESL program for public K-12 students at the time of enrollment.	Alabama (HB 56, Sec. 28)	Enjoined by 11 th Circuit (AL)
Employment and Business Regulations		
E-Verify and Employment <ul style="list-style-type: none"> Requires use of E-Verify for some combination of private employers, government employers, or those contracting with state or local governments or receiving state funds, subject to various penalties such as loss of business license or loss of government contract. Prohibits public and private employers from hiring unauthorized aliens to work. Punishable by suspension of business license. 	Alabama (HB 56, Sec. 9, 15, 16, 26) Georgia (HB 87, Sec. 2,-3, 12, 15) Indiana (SB 590, Sec. 16) South Carolina (SB 20, Sec. 2-3, 8-14)	Arizona E-verify requirement upheld by US Supreme Court (<u>Chamber of Commerce v. Whiting</u> , 2011)
Employment Related Crimes Creates various employment related crimes, including an unauthorized alien seeking or performing work, and the hiring and pick up of workers on roadways.	Alabama (HB 56, Sec. 11) Arizona (SB 1070, Sec. 5)	<ul style="list-style-type: none"> Enjoined by District Court (AL) Enjoined by District Court, Affirmed by 9th Cir., Appealed to US Supreme Court (AZ)
Prohibited tax deductions Prohibits use of wage and other business expenses paid to unauthorized aliens as deductible business expenses or other tax credits.	Alabama (HB 56, Sec. 16) Indiana (SB 590, Sec. 4-7)	Enjoined by District Court (AL)
Discriminatory practice to not hire lawful workers Makes it a discriminatory practice for employers to not hire or discharge lawfully present workers while retaining or hiring unauthorized aliens.	Alabama (HB 56, Sec. 17)	Enjoined by District Court (AL)
Action to Reclaim Unemployment Benefits Permits state to file civil action for reimbursement of unemployment benefits from employer that knowingly employed an unauthorized alien.	Indiana (SB 590, Sec. 14-15)	
Prohibition on Day Labor Prohibits day labor employment without completion of individual attestation of employment authorization.	Indiana (SB 590, Sec. 17)	

<p>Guest Worker Program (Effective 2013)</p> <ul style="list-style-type: none"> • Creates guest worker permits for unauthorized alien to obtain work in the state of Utah upon meeting certain requirements. Permits employers to only hire unauthorized aliens who hold permits. • Creates Utah Pilot Sponsored Resident Immigrant Program to allow an immigrant to reside, work, and study in Utah. • Creates Migrant Worker Visa Pilot Program to allow Utah businesses to obtain legal foreign migrant workers through use of US nonimmigrant visas through MOU with Nueva Leon, Mexico. 	<p>Utah (HB 116, Sec. 9-26) Utah (HB 466, Sec. 6-7) Utah (HB 469)</p>	
<p>Other</p>		
<p>Criminal Concealment, Transporting, and Renting to Aliens</p> <ul style="list-style-type: none"> • Creates various crimes for concealment, harboring, or shielding of an undocumented alien, encouraging or inducing an undocumented alien to come to the state in violation of federal law, transporting, or conspiring to transport an undocumented alien in furtherance of the alien's unlawful presence, or harboring an undocumented alien by renting accommodations to that person. Some exceptions for humanitarian or religious purposes. • Authorizes law enforcement to lawfully stop a motor vehicle upon reasonable suspicion of violation of any civil traffic law in enforcement of human smuggling laws. 	<p>Alabama (HB 56, Sec. 13) Georgia (HB 87, Sec. 7) Indiana (SB 590, Sec. 24) South Carolina (SB 20, Sec 4) Utah (HB 116, Sec. 37, HB 497, Sec. 10)) Arizona (SB 1070, Sec. 4, 5)</p>	<ul style="list-style-type: none"> • Enjoined by District Court (AL) • Enjoined by District Court (GA) • Enjoined by District Court (SC) • Enjoined by District Court (UT – HB 497)
<p>False Identification</p> <ul style="list-style-type: none"> • Creates offense for manufacture or use of false identification or vital records, with some limitation for minors, or in some states limited to fraudulent use for obtaining employment or for use by undocumented alien. • Creates offense of false identity statement for repeated inconsistent statements regarding personal identity to public servants. 	<p>Alabama (HB 56, Sec. 14) Georgia (HB 87, Sec. 4-5) Indiana (SB 590, Sec. 23) South Carolina (SB 20, Sec 6, 15)</p>	<ul style="list-style-type: none"> • Section 6 of SB 20 enjoined by District Court (SC)
<p>No Contracts with Unlawful Aliens Prohibits courts from enforcing contracts between a party and an undocumented alien under certain conditions.</p>	<p>Alabama (HB 56, Sec. 27)</p>	<p>Injunction denied by 11th Circuit (AL)</p>